

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK

.....X
BLOCKCHAIN MINING SUPPLY AND
SERVICES LTD.,

Case No. 18-CV-11099-ALC

Plaintiff,

-against-

NOTICE OF MOTION

SUPER CRYPTO MINING, INC. (N/K/A DIGITAL
FARMS, INC. and DPW HOLDINGS, INC.
(N/K/A AULT AULLIANCE, INC.),

Defendants.
.....X

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Robert B. Volynsky, Esq., dated May 29, 2023, and the exhibits annexed thereto; the accompanying Declaration of Darren Magot, dated May 29, 2023; the accompanying Declaration of William B. Horne, dated May 24, 2023; the accompanying Local Rule 56.1 Statement of Facts; the accompanying Memorandum of Law in Support of Partial Summary Judgment, and upon all prior proceedings, pleadings, and filings in the above-captioned action, Defendants Super Crypto Mining Inc. (n/k/a Digital Farms, Inc.) (“Super Crypto”) and DPW Holdings, Inc. (n/k/a Ault Alliance, Inc.) (“DPW” and with “Super Crypto” collectively, “Defendants”) shall move this Court at the United States Courthouse for the Southern District of New York, 40 Foley Square, Courtroom 435, New York, New York 10007, before the Honorable Andrew L. Carter, Jr., United States District Judge, for an Order: (i) pursuant to Rule 56 of the Federal Rules of Civil Procedure (“FRCP”), dismissing the First Cause of Action (Breach of Contract) against Defendants, with prejudice; (ii) pursuant to FRCP 12(b)(2) and 56, dismissing the Second Cause of Action (Promissory Estoppel) against Defendant DPW, with prejudice, for lack of jurisdiction; (iii) pursuant to FRCP 56, for a declaration that Plaintiff’s recoverable damages, if any, in connection with its Second Cause of Action (Promissory Estoppel) shall be limited to reliance damages; (iv) and for such further and other relief in Defendants’ favor that the Court may deem just and proper.

Dated: Los Angeles, California
May 30, 2023

Respectfully submitted,

WELTZ KAKOS GERBI
WOLINETZ VOLYNSKY LLP

By: /s/ Robert Volynsky
Robert B. Volynsky
170 Old Country Road, Suite 310
Mineola, New York 11501
rvolynsky@weltz.law
(212) 202-3178

*Attorneys for Defendants Super Crypto
Mining Inc. (n/k/a Digital Farms, Inc.)
and DPW Holdings, Inc. (n/k/a Ault
Alliance, Inc.)*

TO: Richard S. Mandel, Esq.
Cowan Liebowitz & Latman P.C.
114 West 47th Street
New York, New York 10036
Tel: (212) 790-9200

Attorneys for Plaintiff